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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,321	09/30/2003	Henrik T. Jensen	BP2964	6482
51472 7590 07/05/2007 GARLICK HARRISON & MARKISON P.O. BOX 160727 AUSTIN, TX 78716-0727			EXAMINER NGUYEN, SIMON	
			ART UNIT 2618	PAPER NUMBER
			MAIL DATE 07/05/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/676,321

Applicant(s)

JENSEN, HENRIK T.

Examiner

SIMON D. NGUYEN

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-10, 20-29, 38-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 9, 10, 20-29, 38 and 44 is/are allowed.
- 6) ☒ Claim(s) 39-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 40-41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 40-41, the terms "upsampled at least 384 times" (claim 40) and "upsampled by a factor of 1,248" (claim 41) were not described in the specification.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claim 39 is rejected under 35 U.S.C. 102(a) as being anticipated by Baker et al. (6,606,483).

Regarding claim 39, Baker discloses a transmitter (fig.2), comprising: a digital processor (202) for modulates digital data to produce a baseband signal and converts to a digitized IF signal by up-sampling the digitized baseband signal by a factor for which a sample rate of the IF signal is a whole multiple of a frequency that used to generate an RF signal (column 8 line 60, column 10 lines 35-36); a DAC (204) for receiving the digitized IF signal to convert to a continuous waveform IF signal; a filter(205) for receiving the continuous waveform IF signal to produce an IF signal and a loop filter (210) for filtering the IF signal to a RF signal (figs. 2, column 5 line 32 to column 6 line 12).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 42-43 rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. (6,606,483) in view of Dartois (6,289,056).

Regarding claims 42-43, the modified Baker does not specifically disclose the IF signal is equal to 26 MHz, a sampling rate that is a multiple of 26 MHz.

Dartois discloses a multi-mode GSM/DCS system, comprising the sampling rate of an ADC is 26 MHz with a multiplier by four or eight, wherein the sampling rate 26 MHz multiplies by 4 = 104 MHz or multiplies by 8= 208 MHz (column 9 line 27 to column 10 line 35, column 11 lines 1-5, fig.4. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have Baker, modified by Dartois in order to meet requirement for to a bit rate and to a channel spacing of each application.

Allowable Subject Matter

7. Claims 1-7, 9-10, 20-29, 38, 44 are allowed.

Regarding claims 1 and 20, the prior art of record fails to teach a DSP generating a digital data at a 338 MHz sample rate.

Regarding claims 2-7, 9-10 21-29, 38-44, these claims are allowed as being dependent upon independent claim that has been allowed.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Simon Nguyen whose telephone number is (571) 272-7894. The examiner can normally be reached on Monday-Friday from 7:00 AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward F. Urban, can be reached on (571) 272-7899.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

600 Dulany, Alexandria, VA 22314

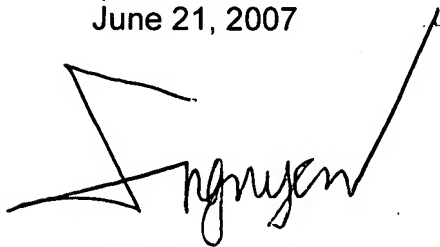
Or faxed to:

(571) 273-8300 (for formal communications intended for entry)

Hand-delivered response should be brought to Customer Service Window located at the Randolph Building, 401 Dulany, Alexandria, VA, 22314.

Simon Nguyen

June 21, 2007

A handwritten signature in black ink, appearing to read 'Nguyen', with a large, stylized initial 'S' or 'N' to the left.

**SIMON NGUYEN
PRIMARY EXAMINER**